

Appl. No. 09/786,080  
Atty. Docket No. CM1905Q  
Amdt. dated February 17, 2004  
Reply to Office Action of Nov. 14, 2003  
Customer No. 27752

### REMARKS

Claims 1 - 17 are pending in the present application. No additional claim fee is believed to be due.

Claim 5 has been amended to correct a transcription error. Support for the amendment is found at page 8, lines 8-15 of the specification.

It is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

### Rejection Under 35 USC 103(a) Over Wada et al. in view of Thompson

The Office Action rejects claims 1-17 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Pat. No. 5,746,729 issued to Wada et al. in view of U.S. Pat. No. 3,929,135 issued to Thompson. Applicant respectfully traverses the rejection by the Office Action because the Office Action fails to establish a *prima facie* case of obviousness.

In order to establish a *prima facie* case of obviousness, three requirements must be met. MPEP §2143. First, there must be some suggestion or motivation, either in the cited references or in the knowledge generally available to one ordinarily skilled in the art, to modify the reference. *Id.* Second, there must be some reasonable expectation of success. *Id.* Third, the cited references must teach or suggest all of the claim limitations. *Id.* The Office Action fails to establish a *prima facie* case of obviousness because the cited combination fails to teach or suggest all of the limitations of the claimed invention.

Claim 1 recites *inter alia*, a nonwoven web comprising a first zone and a second zone." Similarly, independent claim 12 recites *inter alia*, "[a] method of forming a bonded nonwoven web, said method comprising the steps of:..." The specification provides that the nonwoven web 40 "comprises a fibrous material formed from fusible polymeric fibers or filaments," and that the "bonded areas are comprised of many individual bonds." (page 7, lines 27-32). Thus, the bonded area of the claimed invention refers to the bonds between the fibers or filaments which make up the nonwoven web.

In contrast, the suggested combination by the Office Action teaches a laminate structure having an apertured film topsheet. Wada et al. teaches a laminate structure comprising an upper layer 11 and a lower layer 13, wherein the laminate structure has a surrounding zone 7 and a central zone 6. (col. 2, lines 12-20). The laminate structure is adhered together via thermal

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embossing of the surrounding zone 7 while leaving the central zone 6 unbonded. (col. 2, lines 11-18). Thus, thermal embossing refers to the bonding between the upper layer 11 and the lower layer 13.

The Thompson reference teaches a topsheet having apertures therein. (col. 2, lines 23-39). Thompson also teaches that the topsheet is constructed from a liquid impervious material such as polyethylene (col. 3, lines 35-40). But, the Thompson reference does not teach the use of nonwovens and instead teaches against their use. For example the Thompson reference teaches that when the usual nonwoven topsheet is used with a disposable diaper, the permissible loading of the absorptive pad "is somewhat higher than that which is acceptable." (col. 5, lines 9-13). In addition, the Thompson reference utilizes, in Example 1, a topsheet which is a liquid impervious ionomer film. (col. 6, lines 60-62). Similarly, the Thompson reference utilizes, in Example 3, a topsheet which is a low density polyethylene film. (col. 7, lines 16-18). Last, regarding Example 3, the Thompson reference states that the low density polyethylene film "was used in the construction of a disposable diaper" and "the disposable diaper exhibited a drier, more comfortable surface in contact with the infant than can be obtained with a conventional hydrophobic nonwoven topsheet." (col. 7, lines 22-29)(emphasis added).

Because the Thompson reference fails to teach or suggest the use of a nonwoven with apertures and instead teaches the use of a film with tapered capillaries, the Office Action's suggested combination yields a laminate structure which has the lower layer 13 of Wada et al. and the film topsheet of Thompson acting as the upper layer. Thus, the Office Action's suggested combination does not render a nonwoven web with apertures.

Because the suggested combination teaches an apertured film topsheet thermally embossed to a lower layer 13, the suggested combination does not teach or suggest a nonwoven web, as recited in part by independent claims 1 and 12. So, the suggested combination does not teach all of the limitations of the claimed invention, thereby precluding the Office Action from establishing a *prima facie* case of obviousness. Because the the Office Action fails to establish a *prima facie* case of obviousness, Applicant asserts that independent claims 1 and 12 are nonobvious over the suggested references. Furthermore, because claims 2-11 and claims 13-17 depend from claims 1 and 12 respectively, they too are nonobvious over the suggested references. Therefore, Applicant asserts that claims 1-17 are in condition for allowance.

#### Conclusion

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In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejection under 35 U.S.C. § 103(a). Early and favorable action in the case is respectfully requested.

Applicant has made an earnest effort to place his application in proper form and to distinguish the invention as now claimed from the applied references. In view of the foregoing, Applicant respectfully requests reconsideration of this application, entry of the amendments presented herein, and allowance of Claims 1-17.

Respectfully submitted,

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